

### **REMARKS/ARGUMENTS**

The Office Action of January 16, 2009, has been carefully reviewed and these remarks are responsive thereto. Claim 39 is new. No new matter has been added. Claims 3-5 and 22-24 have been canceled previously without prejudice or disclaimer. Claims 1-2, 6-21 and 25-39 are presented for examination upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

Preliminarily, a number of the claims have been amended to remove references to the specification. Such amendments are not believed to modify the scope of the pending claims. Moreover, additional amendments are intended to merely place the claims in a more preferred form, and again, are not believed to modify the scope of the pending claims.

#### **Allowable Subject Matter**

Preliminarily, Applicants note with appreciation the indication that the application contains allowable subject matter at pages 1 and 4 of the Office Action. Specifically, claims 31-38 have been allowed.

Claim 38 has been rewritten in the present paper to affirmatively recite features similar to those recited in claim 1. New claim 39 recites features similar to those recited in claim 13.

Claims 1-2, 6-21, and 25-30 are subject to mere technical rejections that Applicants submit have been overcome upon entry of the present paper. These technical rejections are discussed below.

#### **Rejections under 35 U.S.C. § 101**

Claims 1-2, 6-21, and 25-30 stand rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. This rejection is traversed.

Without acquiescing to the rejection, Applicants have amended independent claims 1, 13, and 20 to “tie” the method to a particular machine or apparatus in accordance with the Examiner’s suggestion for overcoming the section 101 rejection. See the Office Action at pages 2-3.

More specifically, claim 1 recites “arranging said packets into user queues received in respective buffers *at a base station*, by measuring the occupancy level of said buffers.” Illustrative, non-limiting written description support for the amended features can be found in the filed specification when read as a whole, and for example, at page 18, line 4 – page 19, line 2.

Amended independent claim 20 recites features similar to those described above with respect to claim 1.

Amended independent claim 13 recites “defining at least one threshold of traffic level, determining at a serving radio network controller a switching of the transmission of the information packets of said determined user on said dedicated channel starting from said shared channel when the related traffic level grows reaching said at least one threshold and determining at said serving radio network controller the switching of the transmission of the information packets of said determined user on said shared channel starting from said dedicated channel when said respective traffic volume drops reaching said at least one threshold.” Illustrative, non-limiting written description support for the amended features can be found in the filed specification when read as a whole, and for example, at page 21, lines 1-20.

In view of the amendments discussed above, Applicants respectfully request withdrawal of the section 101 rejection of claims 1, 13, and 20. Furthermore, Applicants request withdrawal of the section 101 rejection as applied to the dependent claims in view of the (amended) features recited in the independent claims.

#### **Rejections under 35 U.S.C. § 112**

Claim 13 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Applicants respectfully traverse this rejection.

More specifically, claim 13 stands rejected based on the (prior) recitation “... when said respective traffic volume drops reaching said at least one threshold (T1, T2), further comprising the step of selectively varying the level of said at least one threshold (T1, T2).” as allegedly lacking support in the original specification. See the Office Action at page 3.

Applicants have amended the referenced features in the present paper to recite "... when said respective traffic volume drops reaching said at least one threshold, and - selectively varying the level of said at least one threshold." By virtue of the amendment of claim 13, Applicants have removed/deleted the claim language allegedly responsible for causing the section 112 rejection. Illustrative, non-limiting written description support for the features now recited in claim 13 is provided in the filed specification when read as a whole, and for example, at page 21, line 32 – page 22, line 33. Based on the amendment of claim 13, Applicants respectfully request withdrawal of the section 112 rejection.

### **CONCLUSION**

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

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By: /Gary D. Fedorochko/  
Gary D. Fedorochko  
Registration No. 35,509

1100 13<sup>th</sup> Street, N.W., Suite 1200  
Washington, D.C. 20005-4051  
Tel: (202) 824-3000  
Fax: (202) 824-3001

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